

1 **STEPHEN F. HENRY, ESQ.**

2 STATE BAR # 142336

3 2625 Alcatraz Avenue, # 615

4 Berkeley, California 94705

5 Telephone: (510) 898-1883

6 Facsimile (510) 295-2516

7 shenry@SHenrylaw.com

8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT

10 FOR THE

11 NOTHERN DISTRICT OF CALIFORNIA

12 DAVID ZWEIG, an individual,

13 Plaintiff,

14 vs.

15 YOSI, INC., a New York corporation,

16 Defendant.

Case No. 17-cv-05624-WHA

**DECLARATION OF STEPHEN HENRY  
IN SUPPORT OF OPPOSITION TO  
MOTION TO SET ASIDE DEFAULT  
AND DEFAULT JUDGMENT**

**Hearing Date: September 12, 2019**

**Time: 8:00 a.m.**

**Location: Courtroom 4**

**Hon. William Alsup**

17 I, Stephen Henry, declare:

18 1. I am attorney for the Plaintiff in this action and therefore I personally familiar  
19 with and have personal knowledge of the facts and issues set forth herein.

20 2. On September 19, 2017, I received an email, a true and correct copy of which is  
21 attached as Exhibit A, from Hari Prasad acknowledging a letter from me and informing me that  
22 he would contact Yosi's attorneys to address it.

23 3. On September 28, 2017, a complaint was filed in the Northern District of  
24 California on behalf of David Zweig against Yosi, Inc.

25 4. On October 2, 2017, summons was issued by the Court.

1           5.       On October 4, 2017, Notice of A Lawsuit and Request To Waive Service Of  
2       Summons, a true and correct copy of which is attached as Exhibit B, was mailed to Yosi, Inc. at  
3       the address listed by Hari Prasad in his email. The summons and complaint accompanied the  
4       Notice.

5           6.       On October 4, 2017, in response to an email from Hari Prasad, Plaintiff's counsel  
6       informed Prasad that a complaint had just been sent to Yosi, Inc. by email, a true and correct  
7       copy of which is attached as Exhibit C.

8           7.       In November, 2017, not having received acknowledgment of service from Yosi,  
9       Inc., Plaintiff's counsel retained OneLegal to attempt service on Yosi, Inc. That service was  
10      unsuccessful.

11          8.       On December 7, 2017, service of process was made on Dr. Jonathan Feistmann as  
12      a Director of Yosi, Inc. and Proof of Service, a true and correct copy of which is attached as  
13      Exhibit D, was filed with the Court.

14          9.       On December 21, 2017, Plaintiff's counsel served a Motion for Partial Summary  
15      Judgment on Yosi, Inc., a true and correct copy of the Proof of Service of which is attached as  
16      Exhibit E.

17          10.      On January 5, 2018, in an email acknowledged by Hari Prasad on January 11, a  
18      true and correct copy of which is attached as Exhibit F, Plaintiff's counsel alerted Mr. Prasad to  
19      take Yosi's default.

20          11.      On January 12, 2018, Plaintiff sought a default judgment and, on January 23,  
21      2018, the Clerk entered default against Yosi.

22          12.      On January 31, 2018, Plaintiff sought a default judgment which was denied  
23      without prejudice.

24          13.      On March 7, 2018, the Court issued an Order Vacating Hearing; For  
25      Supplemental Briefing. Plaintiff submitted the Supplemental Brief on March 21, 2018.

26          14.      On March 21, 2018, Plaintiff's counsel served Plaintiff's Motion for Default  
27      Judgment, Declaration of Stephen Henry, Declaration of David Zweig, Order Vacating Hearing,

1 and Supplemental Brief on Yosi, Inc., a true and correct copy of the Proof of Service of which is  
2 attached as Exhibit G. On April 2, Hari Prasad acknowledged by email receiving this package.  
3 See Exhibit H, a true and correct copy of the aforementioned email.

4 15. In the Supplemental Brief, Plaintiff agreed with the Court that New York law  
5 applied and the Court allowed leave to amend his complaint to assert a claim under the New  
6 York Labor Code. Plaintiff then re-served Defendant, through Director Jonathan Feistmann on  
7 April 4, 2018, with the Amended Complaint to which Defendant did not respond. Proof of  
8 Service of the Amended Complaint is attached as Exhibit I.

9 16. On May 9, 2018, Plaintiff's counsel served a second Request for Default on the  
10 Amended Complaint and Declaration of Stephen Henry In Support of Request for Default on  
11 Yosi, Inc. Proof of Service of the Amended Complaint is attached as Exhibit J.

12 17. Plaintiff sought and obtained a default with regard to the Amended Complaint  
13 from the clerk on May 11, 2018.

14 18. On June 5, 2018, Plaintiff's counsel served the Court's Order for Reassignment  
15 With Report and Recommendation Re: Motion for Default Judgment. Proof of Service of this  
16 document is attached as Exhibit K.

17 19. On July 5, 2018 this Court adopted the Magistrate Judge's recommendations and  
18 awarded Zweig unpaid wages, severance, liquidated damages, interest, and additional costs.

19 20. On July 31, 2018, Plaintiff's counsel received an email from attorney Seth Wiener  
20 stating in part "I am in the process of begin retained by Yosi to file an appeal in the above case.  
21 The deadline to file the appeal is quickly approaching, and my client would like to engage in  
22 settlement discussions before incurring the costs of an appeal." See Exhibit L, a true and correct  
23 copy of the aforementioned email.

24 I declare under penalty of perjury under the laws of the United States and California that  
25 the foregoing is true and correct. Executed in Berkeley, California on July 17, 2019.

26  
27 By /s/ Stephen Henry \_\_\_\_\_  
Stephen Henry

# EXHIBIT A

**Stephen Henry**

---

**From:** Hari Prasad <hari@yosicare.com>  
**Sent:** Tuesday, September 19, 2017 8:23 AM  
**To:** Stephen F. Henry  
**Subject:** Re: David Zweig

Stephen - I received the letter you sent re: Mr. David Zweig's employment with Yosi.  
I will consult with our attorneys and get back to you by end of the week with a course of action.

Hari Prasad  
CEO, Yosi, Inc

e: [hari@yosicare.com](mailto:hari@yosicare.com)  
p: (917) 669-9765  
f: (866) 328-2726  
w: <http://www.yosicare.com>  
a: 205 E42nd St Floor 14 New York NY 10017  
v: Video Link

# EXHIBIT B

AO 398 (Rev. 01/09) Notice of a Lawsuit and Request to Waive Service of a Summons

## UNITED STATES DISTRICT COURT

for the  
Northern District of California

David Zweig

Plaintiff

v.

Yosi, Inc.

Defendant

Civil Action No. 17-cv-05624-MEJ

## NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: Yosi, Inc., 205 E 42nd Street, New York, New York 10017

(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

## Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days (give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.


## What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 10/04/2017  
Signature of the attorney or unrepresented party

Stephen F. Henry

Printed name

2625 Alcatraz Ave., No. 615  
Berkeley, CA 94705

Address

shenry@shenrylaw.com

E-mail address

(510) 898-1883

Telephone number

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of California

**David Zweig, an individual**

Plaintiff(s)

**V.**

**Yosi Inc.**

Defendant(s)

Civil Action No. 4:17-cv-05624 MEJ

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Yosi, Inc.  
205 E 42nd Street, 14th Floor  
New York, New York, 10017

**A lawsuit has been filed against you.**

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Stephen F. Henry, Esq.  
2625 Alcatraz Avenue, No. 615  
Berkeley, CA 94705

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: 10/2/2017

**CLERK OF COURT**

*Susan Y. Soong*



Signature of Clerk or Deputy Clerk



# EXHIBIT C

## Stephen Henry

---

**From:** Hari Prasad <hari@yosicare.com>  
**Sent:** Wednesday, October 4, 2017 6:10 PM  
**To:** Stephen F. Henry  
**Cc:** John Gillespie  
**Subject:** Re: David Zweig

I contacted you Sep 19 as soon as I was in receipt to settle this amicably.  
I'm disappointed you filed in federal court w/o responding to my email dated Sep 19.

Thanks,  
Hari

Hari Prasad  
CEO, Yosi, Inc

e: [hari@yosicare.com](mailto:hari@yosicare.com)  
p: (917) 669-9765  
f: (866) 328-2726  
w: <http://www.yosicare.com>  
a: 205 E42nd St Floor 14 New York NY 10017  
v: Video Link

On Wed, Oct 4, 2017 at 6:07 PM, Stephen F. Henry <[stephen@shenrylaw.com](mailto:stephen@shenrylaw.com)> wrote:  
Absolutely.

But just to let you know, I just put service of a complaint, filed in Federal court, in the mail to Yost's office address.

Stephen

Stephen F. Henry, Esq  
2625 Alcatraz Ave., No. 615  
Berkeley, CA 94705  
(510) 898-1883 (phone)  
1-510-295-2516 (fax)

Sent from my iPhone

On Oct 4, 2017, at 5:43 PM, Hari Prasad <[hari@yosicare.com](mailto:hari@yosicare.com)> wrote:

Stephen - Can we setup a call early next week to discuss?

Thanks,  
Hari

Hari Prasad  
CEO, Yosi, Inc

e: [hari@yosicare.com](mailto:hari@yosicare.com)  
p: (917) 669-9765  
f: (866) 328-2726

# EXHIBIT D

1 **STEPHEN F. HENRY, ESQ.**

2 STATE BAR # 142336

3 2625 Alcatraz Avenue, # 615

4 Berkeley, California 94705

5 Telephone: (510) 898-1883

6 Facsimile (510) 295-2516

7 shenry@SHenrylaw.com

8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT

10 FOR THE

11 NOTHERN DISTRICT OF CALIFORNIA

12 DAVID ZWEIG, an individual,

13 Plaintiff,

14 vs.

15 YOSI, INC., a New York corporation,

16 Defendant.

17 Case No. 17-cv-05624-MEJ

18 PROOF OF SERVICE OF SUMMONS  
19 AND COMPLAINT

20 Dated: December 12, 2017

21 STEPHEN F. HENRY, ESQ.

22 By:/s/Stephen F. Henry \_\_\_\_\_

23 STEPHEN F. HENRY

24 Attorney for Plaintiff

**JACOB SINGER & ASSOCIATES**

1357 BROADWAY, PMB 418  
NEW YORK, NY 10018  
Tel.: (212) 760-2300  
Fax: (212) 760-0188

**AGENCY AFFIDAVIT**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DAVID ZWEIG

VS INDEX# 4:17-CV-05624

YOSI INC.

State of New York, County of New York, SS:

**ELWOOD MORRIS**, being duly sworn deposes and says that deponent is over the age of eighteen years, is not a party to this action, and is a resident of New York State .

On **DECEMBER 7/2017 AT 11:11 A.M.** at: **C/O DR. JONATHAN FEISTMANN, M.D.**

**20 EAST 9TH STREET**

**NEW YORK, N.Y. 10003**

Deponent served the annexed:

**SUMMONS IN A CIVIL ACTION:  
PLAINTIFF'S COMPLAINT FOR DAMAGES**

on **YOSI, INC.** by delivering thereat a true copy to **DR. JONATHAN FEISTMANN, M.D.** personally; who at the time of service advised deponent that he/ she was authorized to accept service of process on behalf of **YOSI, INC.**.

Deponent describes the individual served as follows:


SEX/RACE (skin color): male / white

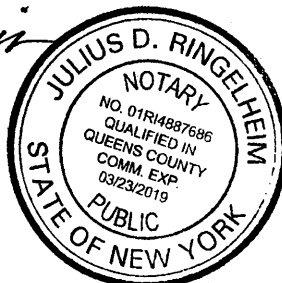
HAIR COLOR/ APPROXIMATE AGE; brown / 40's

APPROXIMATE HEIGHT/ APP. WEIGHT: 6'2" / 190 lbs.

1389/PS12.17 -31

SWORN TO BEFORE ME ON December 07, 2017

+.. 



*Elwood Morris*  
ID#: 2042813

**EXHIBIT E**

**PROOF OF SERVICE**

I, Stephen Henry, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. My business address is 2625 Alcatraz Avenue, No. 615, Berkeley, California, 94705.

On December 21, 2017, I served the attached:

**NOTICE OF MOTION AND MOTION FOR PARTIAL SUMMARY JUDGMENT  
DECLARATION OF DAVID ZWEIG IN SUPPORT OF PLAINTIFF'S MOTION**

on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows:

Yosi, Inc.  
205 E 42nd Street, 14th Floor  
New York, New York, 10017

and served the named document in the manner indicated below:

☒ **BY MAIL:** I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), at Berkeley, California, for collection and mailing with the United States Postal Service, and in the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.

☐ **BY OVERNIGHT MAIL:** I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), for overnight mailing by Federal Express,

☐ **BY FACSIMILE:** I caused true and correct copies of the above document(s) to be sent via facsimile to the addressee(s) on this date. The facsimile machine used complies with California Rule of Court 2003(3) and no error was reported by the sending facsimile machine. The transmission record for this facsimile complies with California Rule of Court 2003(6).

☐ **BY HAND DELIVERY:** I caused true and correct copies of the above document(s) to be placed within a sealed envelope or other package and then caused the package to be hand-delivered to the addressee(s) on this date.

☐ **BY EMAIL:** I caused true and correct copies of the above document(s) to be sent via email to the addressee(s) on this date.

☐ **BY ELECTRONIC SERVICE:** I caused true and correct copies of the above document(s) to be provided via e-service to the addressee(s) on this date via the same service as was used to e-file the document(s).

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed December 21, 2017 at Berkeley, California.

/s/Stephen Henry  
STEPHEN HENRY

# EXHIBIT F



## Stephen Henry

---

**From:** Hari Prasad <hari@yosicare.com>  
**Sent:** Thursday, January 11, 2018 5:32 PM  
**To:** Stephen F. Henry  
**Subject:** Re: David Zweig

Steve - This new proposal is unreasonable and not acceptable to us.

We are happy to settle for what is rightfully owed to your client through his employment until August 14, 2017, not for anytime beyond his employment with Yosi.

Hari

Hari Prasad  
CEO, Yosi, Inc

e: [hari@yosicare.com](mailto:hari@yosicare.com)  
p: (917) 669-9765  
f: (866) 328-2726  
w: <http://www.yosicare.com>  
a: 205 E42nd St Floor 14 New York NY 10017  
v: Video Link

On Fri, Jan 5, 2018 at 7:16 PM, Stephen F. Henry <[stephen@shenrylaw.com](mailto:stephen@shenrylaw.com)> wrote:

Dear Mr. Prasad:

You recently contacted Mr. Zweig but he does not wish to communicate with you.

At this point, Yosi has not answered the complaint served upon one of its directors and has not opposed the Motion for Partial Summary Judgment served upon you. Therefore, Mr. Zweig will be taking Yosi's default and/or obtaining judgment through the Motion for Partial Summary Judgment. Once a judgment is in place, Mr. Zweig will be free to collect on the judgment by attaching all of Yosi's assets and income. However, Mr. Zweig is still interested in entering into a settlement agreement that will ameliorate the effect of that collection. Previously, Mr. Zweig had proposed the following resolution:

- (1) In lieu of the severance payment that would be owed if Mr. Zweig terminated his Employment Agreement "with cause," as provided for under the Agreement, Mr. Zweig's last day of employment with Yosi will be October 31, 2017.
- (2) Mr. Zweig will be paid his monthly salary owed of \$6,666.67 for September, 2017 and October, 2017 on the first day of each month and will be issued a pay stub concurrently therewith.
- (3) The parties will negotiate a repayment plan for the remaining money owed to Mr. Zweig, which, as you acknowledge in your August 14, 2017 email, is \$60,983.11 — with interest for any failure to pay timely pursuant to the Agreement.
- (4) Mr. Zweig will, of course, be looking for employment, and requires a positive letter of recommendation upon request, that accurately reflects his skills.

We have now modified this proposal as follows:

- (1) Mr. Zweig will continue to be employed by Yosi.
- (2) Beginning on January 31, 2018, Mr. Zweig will be paid a monthly salary of \$10,000 on the last day of each month and will be issued a pay stub concurrently therewith.
- (3) At any point thereafter, Mr. Zweig may give notice of his termination of the employment relationship for cause and Yosi will pay the remaining money owed to Mr. Zweig, on a monthly basis without issuance of a paystub, at a rate of \$10,000 per month, until the following amount has been fully paid: \$85,316.45 (which includes \$74,316.45 owed to Mr. Zweig and \$11,000 in accrued and anticipated legal fees).
- (4) Yosi will also provide Mr. Zweig a positive letter of recommendation that accurately reflects his skills, upon request.

You have until January 10, 2018 to respond to this proposal which must be memorialized in writing no later than January 19, 2018

Stephen F. Henry, Attorney at Law

2625 Alcatraz Avenue, No. 615

Berkeley, California 94705

(510) 898-1883 (phone)

1-510-295-2516 (fax)

shenry@shenrylaw.com

Business and Employment Law

Consultation and Litigation

# EXHIBIT G

1 **STEPHEN F. HENRY, ESQ.**

2 STATE BAR # 142336

3 2625 Alcatraz Avenue, # 615

4 Berkeley, California 94705

5 Telephone: (510) 898-1883

6 Facsimile (510) 295-2516

7 shenry@SHenrylaw.com

8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT

10 FOR THE

11 NOTHERN DISTRICT OF CALIFORNIA

12 DAVID ZWEIG, an individual,

13 Plaintiff,

14 vs.

15 YOSI, INC., a New York corporation,

16 Defendant.

17 Case No. 17-cv-05624-MEJ

18 AMENDED PROOF OF SERVICE

**PROOF OF SERVICE**

I, Stephen Henry, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. My business address is 2625 Alcatraz Avenue, No. 615, Berkeley, California, 94705.

On March 21, 2018, I served the attached:

**PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT  
DECLARATION OF STEPHEN HENRY IN SUPPORT OF MOTION  
DECLARATION OF DAVID ZWEIG IN SUPPORT OF MOTION  
ORDER VACATING HEARING; FOR SUPPLEMENTAL BRIEFING  
SUPPLEMENTAL BRIEF RE MOTION FOR DEFAULT JUDGMENT**

on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows:

Yosi, Inc.  
205 E 42nd Street, 14th Floor  
New York, New York, 10017

and served the named document in the manner indicated below:

☒ **BY MAIL:** I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), at Berkeley, California, for collection and mailing with the United States Postal Service, and in the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.

☐ **BY OVERNIGHT MAIL:** I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), for overnight mailing by Federal Express,

☐ **BY HAND DELIVERY:** I caused true and correct copies of the above document(s) to be placed within a sealed envelope or other package and then caused the package to be hand-delivered to the addressee(s) on this date.

☐ **BY ELECTRONIC SERVICE:** I caused true and correct copies of the above document(s) to be provided via e-service to the addressee(s) on this date via the same service as was used to e-file the document(s).

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed March 21, 2018 at Berkeley, California.

/s/Stephen Henry  
STEPHEN HENRY

# EXHIBIT H

## Stephen Henry

---

**From:** Hari Prasad <hari@yosicare.com>  
**Sent:** Monday, April 2, 2018 3:35 PM  
**To:** Stephen F. Henry  
**Subject:** Re: David Zweig

Stephen - I received a mail package last week.

I was waiting for a response from you for the below email to handle this situation so we can mutually agree to a payment plan.

What are your thoughts on this?

Hari

Hari Prasad  
CEO, Yosi, Inc

e: [hari@yosicare.com](mailto:hari@yosicare.com)  
p: (917) 669-9765  
f: (866) 328-2726  
w: <http://www.yosicare.com>  
a: 205 E42nd St Floor 14 New York NY 10017  
v: Video Link

On Tue, Jan 16, 2018 at 10:47 PM, Hari Prasad <hari@yosicare.com> wrote:  
I'm proposing what he would have received after W-2 withholding.  
We cant address/discuss how to handle the withholding difference.

Hari Prasad  
CEO, Yosi, Inc

e: [hari@yosicare.com](mailto:hari@yosicare.com)  
p: (917) 669-9765  
f: (866) 328-2726  
w: <http://www.yosicare.com>  
a: 205 E42nd St Floor 14 New York NY 10017  
v: Video Link

On Thu, Jan 11, 2018 at 8:53 PM, Stephen F. Henry <[stephen@shenrylaw.com](mailto:stephen@shenrylaw.com)> wrote:

Are you proposing to pay him what he would have received after W-2 withholding, even though you never did any W-2 withholding, and you pocket the savings?

Or are you proposing to retroactively do the withholding and provide paystubs and a W-4?

# EXHIBIT I



1 **STEPHEN F. HENRY, ESQ.**

2 STATE BAR # 142336

3 2625 Alcatraz Avenue, # 615

4 Berkeley, California 94705

5 Telephone: (510) 898-1883

6 Facsimile (510) 295-2516

7 shenry@SHenrylaw.com

8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT

10 FOR THE

11 NOTHERN DISTRICT OF CALIFORNIA

12 DAVID ZWEIG, an individual,

13 Plaintiff,

14 vs.

15 YOSI, INC., a New York corporation,

16 Defendant.

Case No. 17-cv-05624-MEJ

PROOF OF SERVICE OF SUMMONS  
AND AMENDED COMPLAINT

17  
18  
19  
20  
21  
22 Dated: MAY 4, 2018

STEPHEN F. HENRY, ESQ.

23  
24  
25 By:/s/Stephen F. Henry  
STEPHEN F. HENRY  
26 Attorney for Plaintiff

AO 440 (Rev. 06/12) Summons in a Civil Action

# UNITED STATES DISTRICT COURT

for the

Northern District of California



David Zweig, an individual

\_\_\_\_\_  
*Plaintiff(s)*

v.

Yosi Inc.

\_\_\_\_\_  
*Defendant(s)*

Civil Action No. 4:17-cv-05624 MEJ

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Yosi, Inc.  
205 E 42nd Street, 14th Floor  
New York, New York, 10017

*X Jonathan Feinman*  
*4.3.18*

*[Signature]*  
*8:30AM*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Stephen F. Henry, Esq.  
2625 Alcatraz Avenue, No. 615  
Berkeley, CA 94705

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: 10/2/2017

CLERK OF COURT



Susan Y. Soong

*[Signature]*  
Signature of Clerk or Deputy Clerk

**JACOB SINGER & ASSOCIATES**

1357 BROADWAY, PMB 418  
NEW YORK, NY 10018  
Tel.: (212) 760-2300  
Fax: (212) 760-0188

**AGENCY AFFIDAVIT**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DAVID ZWEIG

VS INDEX# 4:17-CV-05624 MEJ

YOSI INC.

State of New York, County of New York, SS:

**JACK JOHNSON**, being duly sworn deposes and says that deponent is over the age of eighteen years, is not a party to this action, and is a resident of New York State.

On **APRIL 3/2018 AT 8:30 A.M.** at: **C/O DR. JONATHAN FEISTMANN, MD / DBA NYC RETINA**  
**20 EAST 9TH STREET**  
**NEW YORK, N.Y. 10003**

Deponent served the annexed:

**SUMMONS IN A CIVIL ACTION:  
PLAINTIFF'S AMENDED COMPLAINT FOR DAMAGES**

on **YOSI INC.** by delivering thereat a true copy to **JONATHAN FEISTMANN** personally; who at the time of service advised deponent that he/ she was authorized to accept service of process on behalf of **YOSI INC.**

Deponent describes the individual served as follows:

SEX/RACE (skin color): MALE / WHITE

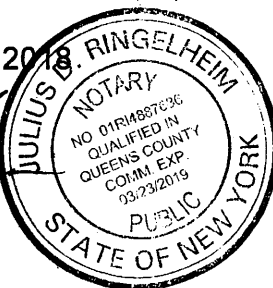
HAIR COLOR/ APPROXIMATE AGE; BROWN/ 30-40 YRS.

APPROXIMATE HEIGHT/ APP. WEIGHT: 6'2"/190 LBS.

1389/PS3.18-110

SWORN TO BEFORE ME ON April 03, 2018

*Julius D. Ringelheim*



*Jack Johnson*  
#2037237

# EXHIBIT J

**PROOF OF SERVICE**

I, Stephen Henry, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. My business address is 2625 Alcatraz Avenue, No. 615, Berkeley, California, 94705.

On May 9, 2018, I served the attached:

**PLAINTIFF'S REQUEST FOR DEFAULT**

on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows:

Yosi, Inc.  
205 E 42nd Street, 14th Floor  
New York, New York, 10017

and served the named document in the manner indicated below:

☒ **BY MAIL:** I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), at Berkeley, California, for collection and mailing with the United States Postal Service, and in the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.

☐ **BY OVERNIGHT MAIL:** I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), for overnight mailing by Federal Express,

☐ **BY HAND DELIVERY:** I caused true and correct copies of the above document(s) to be placed within a sealed envelope or other package and then caused the package to be hand-delivered to the addressee(s) on this date.

☐ **BY EMAIL:** I caused true and correct copies of the above document(s) to be sent via email to the addressee(s) on this date.

☐ **BY ELECTRONIC SERVICE:** I caused true and correct copies of the above document(s) to be provided via e-service to the addressee(s) on this date via the same service as was used to e-file the document(s).

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed May 9, 2018 at Berkeley, California.

/s/Stephen Henry  
STEPHEN HENRY

**PROOF OF SERVICE**

I, Stephen Henry, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. My business address is 2625 Alcatraz Avenue, No. 615, Berkeley, California, 94705.

On May 9, 2018, I served the attached:

**DECLARATION OF STEPHEN HENRY IN SUPPORT OF REQUEST FOR DEFAULT**  
on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows:

Yosi, Inc.  
205 E 42nd Street, 14th Floor  
New York, New York, 10017

and served the named document in the manner indicated below:

☒ **BY MAIL:** I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), at Berkeley, California, for collection and mailing with the United States Postal Service, and in the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.

☐ **BY OVERNIGHT MAIL:** I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), for overnight mailing by Federal Express,

☐ **BY HAND DELIVERY:** I caused true and correct copies of the above document(s) to be placed within a sealed envelope or other package and then caused the package to be hand-delivered to the addressee(s) on this date.

☐ **BY EMAIL:** I caused true and correct copies of the above document(s) to be sent via email to the addressee(s) on this date.

☐ **BY ELECTRONIC SERVICE:** I caused true and correct copies of the above document(s) to be provided via e-service to the addressee(s) on this date via the same service as was used to e-file the document(s).

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed May 9, 2018 at Berkeley, California.

/s/Stephen Henry  
STEPHEN HENRY

1 **STEPHEN F. HENRY, ESQ.**

2 STATE BAR # 142336

3 2625 Alcatraz Avenue, # 615

4 Berkeley, California 94705

5 Telephone: (510) 898-1883

6 Facsimile (510) 295-2516

7 shenry@SHenrylaw.com

8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT

10 FOR THE

11 NOTHERN DISTRICT OF CALIFORNIA

12 DAVID ZWEIG, an individual,

Case No. 17-cv-05624-MEJ

13 Plaintiff,

**PROOF OF SERVICE**

14 vs.

15 YOSI, INC., a New York corporation,

16 Defendant.

**PROOF OF SERVICE**

I, Stephen Henry, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. My business address is 2625 Alcatraz Avenue, No. 615, Berkeley, California, 94705.

On June 5, 2018, I served the attached:

**ORDER FOR REASSIGNMENT WITH REPORT AND RECOMMENDATION RE:  
MOTION FOR DEFAULT JUDGMENT**

on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows:

Yosi, Inc.  
205 E 42nd Street, 14th Floor  
New York, New York, 10017

and served the named document in the manner indicated below:

☒ **BY MAIL:** I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), at Berkeley, California, for collection and mailing with the United States Postal Service, and in the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.

☐ **BY OVERNIGHT MAIL:** I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), for overnight mailing by Federal Express,

☐ **BY HAND DELIVERY:** I caused true and correct copies of the above document(s) to be placed within a sealed envelope or other package and then caused the package to be hand-delivered to the addressee(s) on this date.

☐ **BY EMAIL:** I caused true and correct copies of the above document(s) to be sent via email to the addressee(s) on this date.

☐ **BY ELECTRONIC SERVICE:** I caused true and correct copies of the above document(s) to be provided via e-service to the addressee(s) on this date via the same service as was used to e-file the document(s).

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed June 5, 2018 at Berkeley, California.

/s/Stephen Henry  
STEPHEN HENRY



**EXHIBIT L**

**Stephen Henry**

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**From:** Seth Wiener <sethwiener@yahoo.com>  
**Sent:** Tuesday, July 31, 2018 11:38 AM  
**To:** Stephen F. Henry  
**Subject:** Zweig v. Yosi - Privileged Settlement Communication

Dear Mr. Henry,

I am in the process of begin retained by Yosi to file an appeal in the above case. The deadline to file the appeal is quickly approaching, and my client would like to engage in settlement discussions before incurring the costs of an appeal. Can you let me know your availability to discuss settlement today or tomorrow?

Thanks,  
Seth

Law Offices of Seth W. Wiener  
609 Karina Court  
San Ramon, CA 94582  
(925) 487-5607  
[www.sethwienerlaw.com](http://www.sethwienerlaw.com)